

Offi
SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	August 6, 2015
Time of Incident:	Approximately 9:00 p.m.
Location of Incident:	XXXX W. Cortland Street, Chicago, Illinois
Date of COPA Notification:	August 7, 2015
Time of COPA Notification:	2:25 p.m.

On August 6, 2015, at approximately 9:00 p.m., at XXXX W. Cortland, Subject 1 and his partner, Subject 2, were inside Subject 2's residence when Officer A, Officer B, Officer C, and Officer D entered the residence and arrested Subject 1 and Subject 2.

Prior to their arrests, Subject 1 and Subject 2 were involved in an incident at a local convenience store. The store clerk, Civilian 1, refused to sell Subject 2 cigarettes without identification.² Following Civilian 1's refusal to sell Subject 2 cigarettes, Subject 2 got into a physical altercation with the store clerk and then both Subject 2 and Subject 1 damaged property inside the store. Subject 1 alleged that his arrest was without justification, and while inside the residence, Officer B grabbed Subject 1 and pushed him against the wall. It was further alleged that an unidentified officer damaged Subject 1's cell phone by slamming it against the kitchen counter. After being placed under arrest, Subject 1 and Subject 2 were transported to the XXXth District Station where an unidentified officer called Subject 1 a "faggot" and repeatedly turned the lights of the processing room occupied by Subject 1 off and on.

The Civilian Office of Police Accountability ("COPA") investigated Subject 1's allegations and determined there was insufficient evidence to prove or disprove the allegation that Subject 1 was arrested without justification. Additionally, COPA determined there was insufficient evidence to prove or disprove the allegations that Officer B grabbed Subject 1 and pushed him against a wall; that an unidentified officer damaged Subject 1's cell phone; and that an unidentified officer called Subject 1 a "faggot" and repeatedly turned the lights of a processing room occupied by Subject 1 off and on. Accordingly, all the allegations are not sustained.

II. INVOLVED PARTIES

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

² Attempts to contact and interview Civilian 1 were made but met with negative results.

Involved Officer #1:	Officer A; Star #XXXX; Employee ID#XXXXXX; DOA: XX/XX/2000; DOB: XX/XX/1965; Male, White
Involved Officer #2:	Officer B; Star #XXXX; Employee ID#XXXXXX; DOA: XX/XX/ 2006; DOB: XX/XX/1978; Male, Hispanic
Involved Officer #3:	Officer C; Star #XXXX; Employee ID#XXXXXX; DOA: XX/XX/ 2013; DOB: XX/XX/1982; Male, White
Involved Officer #4:	Officer D; Star #XXXX; Employee ID#XXXXXX; DOA: XX/XX/2012; DOB: XX/XX/1983; Male, White
Involved Officer #5:	Unidentified
Subject #1:	Subject 1, DOB: April XX, 1993; Male, Hispanic
Subject #2:	Subject 2, DOB: September XX, 1995; Male, Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	It is alleged that on August 6, 2015, at approximately 9:00 p.m., at XXXX W. Cortland, inside, the accused, Officer A, #XXXX, Unit XXX, arrested Subject 1 without justification.	Not Sustained
Officer B	It is alleged that on August 6, 2015, at approximately 9:00 p.m., at XXXX W. Cortland, inside, the accused, Officer B, #XXXX, Unit XXX, grabbed Subject 1 and pushed him against a wall.	Not Sustained
	It is alleged that on August 6, 2015, at approximately 9:00pm, at XXXX W. Cortland, inside, the accused, Officer B, #XXXX, Unit XXX, arrested Subject 1 without justification	Not Sustained
Officer C	It is alleged that on August 6, 2015, at approximately 9:00pm, at XXXX W. Cortland, inside, the accused, Officer C, #XXXX, Unit XXX, arrested Subject 1 without justification.	Not Sustained
Officer D	It is alleged that on August 6, 2015, at approximately 9:00 pm, at XXXX W. Cortland, inside, the accused, Officer D, #XXXX, Unit XXX/Detailed to Unit XXX, arrested Subject 1 without justification.	Not Sustained

Unidentified Officer	<p>1. It is alleged that on August 6, 2015, at approximately 9:00 pm, at XXXX W. Cortland that an unidentified officer damaged Subject 1's cell phone by slamming it against the kitchen counter.</p> <p>2. It is alleged that on August 6, 2015, at approximately 9:00 pm, at District XXX that an unidentified officer called Subject 1 a "faggot."</p> <p>3. It is alleged that on August 6, 2015, at approximately 9:00 pm, at District XXX that an unidentified officer repeatedly turned the lights of a processing room occupied by Subject 1, off and on.</p>	Not Sustained
		Not Sustained
		Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 6: Disobedience of an order or directive, whether written or oral.

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

V. INVESTIGATION³

a. Interviews

i. Subject 1

During an interview with the Independent Police Review Authority ("IPRA") on August 12, 2015, Subject 1 stated that on August 6, 2015, he and Subject 2 were at a convenience store located near Subject 2's residence when Subject 2 engaged in an altercation with Civilian 1

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

regarding the purchase of cigarettes. Subject 2 wanted to purchase a loose cigarette. Civilian 1 wanted Subject 2 to wait until the customers were gone.

While standing outside the store with their dog, Subject 1 observed that Civilian 1 had physically restrained Subject 2 and was escorting Subject 2 outside the store. Once outside, Subject 1 observed Civilian 1 punch Subject 2 on the back. Subject 2 reacted physically against Civilian 1.⁴ Following the altercation, Subject 1 and Subject 2 went to Subject 2's residence.

Officers C and D arrived at Subject 2's house about an hour later and attempted to enter the residence without a warrant and were denied entry. Later that evening, at approximately 9:30 p.m., Officers C and D, accompanied by Officers A and B, returned to the residence. According to Subject 1, the officers jumped over the front gate and entered the residence via the unlocked rear door. Once inside, Subject 2's mother, Civilian 2 asked the officers to go back outside to discuss why the officers were there.⁵ The officers pushed Civilian 2 to the side and rushed toward Subject 1 and Subject 2. Subject 1 asked the officers for a search warrant. The officers said they didn't "fucking" need one. Subject 1 grabbed his cell phone and attempted to record their actions. One of the officers grabbed Subject 1's cell phone and slammed it on the kitchen counter, damaging the cell phone. Another officer, identified as Officer B by Subject 1, grabbed Subject 1, pushed him against a wall and handcuffed him. Subject 1 stated that Officer B did this to him because Officer B thought Subject 1 was attempting to retrieve a weapon.

Subject 1 believed he was arrested without justification and transported to the XXXth District Station. An unidentified officer referred to Subject 1 as a "faggot" and repeatedly turned the lights of a processing room occupied by Subject 1 off and on. Subject 1 stated that though he's listed as a male on his identification, he was referred to as "a subject" at the station.⁶

ii. Subject 2

During an interview with IPRA on August 12, 2015, Subject 2 stated that approximately four to five officers entered his residence without a search warrant by "barging in" the door. Once inside, the officers yelled profanity and shoved people aside.⁷ Subject 1 asked the officers to produce a search warrant and attempted to record the officers. One of the officers, described by Subject 2 as a uniformed Hispanic male, snatched Subject 1's phone way from him and told Subject 1 to stop recording, slammed the phone down on the kitchen counter causing damage to the phone. Subject 2 and Subject 1 were arrested and transported to the XXXth District Station. While at the 025th District Station, among other things, Subject 2 heard an officer at the station refer to Subject 1 as "faggot", "it" and "subject."⁸

⁴ Subject 1 believed that Subject 2 scratched Civilian 1 but was unsure exactly what Subject 2 did to Civilian 1.

⁵ Attempts to contact and interview Civilian 2 were made but met with negative results. According to Subject 1, Civilian 2 did not want to get involved in the investigation. (See Attachments 38, 39, 40 and 50.)

⁶ Attachments 7, 8, and 24.

⁷ Subject 2 stated that the officers were at his residence because Civilian 1 had given the officers a description of him.

⁸ Attachments 13 and 14.

iii. Officer C

During an interview with COPA on January 31, 2018, Officer C stated that he was partnered with Officer D when they were dispatched to a battery involving criminal trespassing at a local convenience store. Upon arrival at the store, Civilian 1 informed the officers that Subject 2 became upset and struck him after he refused to sell Subject 2 cigarettes without identification. Subject 2 then left the store but returned with a second unidentified unknown male and someone proceeded to break glass countertops.⁹ Officers C and D observed injuries to Civilian 1. Civilian 1 identified Subject 2 as Subject 2 was exiting the front of a residence located at XXXX W. Cortland. Officers C and D exited their vehicle and questioned Subject 2 regarding his involvement in the altercation at the store. Subject 2 immediately locked the wrought iron fence, became irate and uncooperative and retreated behind the fence.

Officers C and D gave Civilian 1 information on how to obtain a warrant, dropped him back off at the store and relocated to the XXXth District Station where they completed a Case Report. Officers C and D encountered tactical Officers B and A at the station and they accompanied Officers C and D back to Subject 2's residence.

The officers initially attempted to make contact with Subject 2 at the front of the residence but were unsuccessful. They then went to the rear of the residence where one of the tactical officers encountered Civilian 2 at the rear door. Officer C could not recall the verbal exchange that took place between the one tactical officer and Civilian 2 before Civilian 2 allowed the officers access to the interior of the residence.¹⁰ Once inside, the officers encountered Subject 2 and Subject 1 in the kitchen. Officer D identified Subject 2 as the original subject who was seen outside the residence when they were with Civilian 1. Officers B and A spoke with Subject 2 and then he was taken into custody.¹¹ Civilian 2 informed one of the tactical officers that Subject 1 was also involved in breaking the glass at the store and he was also taken into custody. Officer C stated that he did not observe Subject 1's cell phone, any officer grab Subject 1 and push him against a wall, any officer physically contact Civilian 2, nor did he hear any officer direct derogatory language toward Subject 1 regarding his sexuality. Finally, he denied seeing any officer repeatedly turn off/on the lights inside the room where Subject 1 was seated. Officer C stated the arrest of Subject 1 was justified because Subject 1 participated in Criminal Damage to Property.¹²

iv. Officer D

In an interview with IPRA on March 9, 2018, Officer D provided an account similar to Officer C's account regarding their first visit to the convenience store and the officers' first visit to Subject 2's residence.¹³ Then, after their encounter at the convenience store, both officers returned to the XXXth District Station and were working on paperwork. Officers A and B approached and asked them what they were working on, which was when Officers D and C told

⁹ Officer C could not recall if Civilian 1 specifically identified who cracked the glass cases with a rock.

¹⁰ Officer C stated that he believed Officers B and A entered the residence first.

¹¹ Officer C could not recall which tactical officer took Subject 2 into custody.

¹² Attachment 45.

¹³ Officer D stated that Subject 2's residence was approximately one block away from the convenience store.

Officers A and B about the incident involving Subject 2. Officers A and B volunteered to accompany them back to Subject 2's residence to inform Subject 2 and Subject 1 that they were named as offenders in a police report.

Upon arriving at Subject 2's house, the officers went to the rear door where Officers A and B encountered Civilian 2. Civilian 2 allowed the officers inside the residence. Subject 2 was identified as one of the offenders. Officer D did not recall what Civilian 2 told them regarding Subject 2's and Subject 1's involvement in the incident at the store. The only information Subject 2 had regarding Civilian 2's account was the information that was documented in the related Department reports. Officer D stated that Officers A and B gathered the information that was necessary for Subject 1's arrest and that the justification for Subject 1's arrest was based on the information received they from Civilian 2. Officer D did not recall which officers had physical contact with Subject 1 inside the residence, whether any officer was in possession of Subject 1's cell phone, nor did he hear any officer make any derogatory comments to Subject 1 regarding his sexuality. Finally, he did not observe any officer repeatedly turn off/on the lights of a room that was occupied by Subject 1.¹⁴

v. Officer A

During an interview with IPRA on January 18, 2018, Officer A stated that he and Officer B were partners as tactical officers. They joined Officers C and D at the XXXth District Station and relocated to XXXX W. Cortland to follow up on a battery that occurred inside a local convenience store.

Upon arrival, and in search of the offenders, the officers attempted to make contact with the residents of XXXX W. Cortland by knocking on doors and ringing doorbells. Civilian 2 met the officers at the rear of the residence. One of the officers informed Civilian 2 that they were there to investigate an incident that occurred at a nearby store and recognized that Subject 2 was standing in the doorway. Civilian 2 allowed the officers inside her residence.

While standing in the kitchen, Civilian 2 informed Officers A and B that she had accompanied Subject 2 and Subject 1 to the store earlier and observed Subject 1 cause damages inside the store because the store clerk refused to sell them cigarettes without identification. Meanwhile, Subject 1 attempted to record the officers with his cell phone and told the officers that he broke the glass counter near the register. Subject 1's cell phone was taken from him as he and Subject 2 were placed into custody and then transported to the XXXth District Station.¹⁵ Officer A did not observe any officer grab Subject 1 and push him against a wall. He did not hear any officer make any derogatory comments about Subject 1's sexuality, nor did he observe any officer repeatedly turn off/on the lights of the room in which Subject 1 was being detained. Officer A stated the arrest of Subject 1 was justified because Subject 1 voluntarily admitted to his involvement in the altercation at the store.¹⁶

vi. Officer B

¹⁴ Attachment 49.

¹⁵ Officer A could not recall which officer took Subject 2 into custody or which officer took Subject 1 into custody.

¹⁶ Attachment 34.

During an interview with IPRA on January 18, 2018, Officer B stated that he and his partner, Officer A, were assisting Officers C and D at the residence located at XXXX W. Cortland. Officers C and D stayed near the rear gate while Officers B and A went to the front area, opened the gate and walked toward the residence. Officer B stood near the front door while Officer A relocated to the rear yard.

Moments later, Officer B heard yelling coming from the rear yard, relocated to the rear yard and observed that the rear door was open. Officer B entered the open door and observed Officer A conversing with Civilian 2, Subject 2 and Subject 1. Civilian 2 had allowed Officer A inside the residence. Officers C and D were not inside the residence.¹⁷ Subject 1 was yelling at Officer A as Officer B attempted to deescalate the situation by telling Subject 1 to focus on/talk to him. Officer A explained to Subject 1 and Subject 2 the reason they were there. Subject 1 admitted to his involvement at the store. Subject 1 and Subject 2 were taken into custody without incident and transported to the XXXth District Station.

Officer B stated that he was not in possession of Subject 1's cell phone, nor did he observe any officer in possession of Subject 1's cell phone. He denied grabbing Subject 1 and pushing him against a wall, nor did he observe any other officer grab Subject 1 or push Subject 1 against a wall. He did not hear any officer make any derogatory comments regarding Subject 1's sexuality, nor did he did observe any officer repeatedly turn off/on the lights of the room in which Subject 1 was being detained at the station. Officer B stated that the arrest of Subject 1 was justified because Subject 1 admitted to his involvement in the altercation at the store.¹⁸

b. Digital Evidence

Evidence Technician photographs taken on August 7, 2015, depict overall and close ups of Civilian 1; his right hand and fingers; and blood on his shirt.¹⁹

c. Documentary Evidence

The Office of Emergency Management and Communications Event Query Report documents that a caller named Civilian 1 reported that he was attacked by a male after he denied the male a sale at a food mart located at XXXX W. Armitage. XXXth District officers were dispatched and a case report, RD#XXXXXXXX, was generated.²⁰

The Original Incident Case Report and related Arrest Report for RD#XXXXXXXX documents that Subject 2 was identified by Civilian 1 as the offender who became angry and

¹⁷ Officer B was not sure if Officers C and D ever entered the residence.

¹⁸ Attachment 37.

¹⁹ Attachments 22 and 29.

²⁰ Attachment 17.

battered Civilian 1 after he refused to sell Subject 2 cigarettes. Subject 2 approached Civilian 1 behind the store counter, grabbed Civilian 1's right arm and bit his right hand. Subject 2 left the store and returned with Subject 1 and the offenders broke the glass display case. Officers located Subject 2 and Subject 1 at Subject 2's residence and took them into custody. Subject 2 and Subject 1 were transported to the XXXth District Station for processing. Subject 2 and Subject 1 were charged with Criminal Damage to Property. Subject 2 was additionally charged with Battery. Subject 1's arrest indicated that Subject 1 was identified by Civilian 2 as being involved and that Subject 1 admitted to his involvement in the incident.²¹

VI. ANALYSIS

Arrested without Justification

An officer may arrest an individual when there is probable cause to believe that the individual is committing, has committed, or is about to commit a crime. The determination of probable cause to arrest is flexible, untechnical, and considers the totality of circumstances surrounding the arrest. In the present case, Subject 1 was arrested for criminal damage to property. Under Illinois Law, a person commits criminal damage to property when he or she knowingly damages the property of another.²² We now find that we are unable to determine by a preponderance of the evidence if Subject 1's arrest was proper.

Subject 1's arrest reported indicated that he was identified by Civilian 2, his mother, as accompanying Subject 2 to the convenience store. Without explanation as to what Subject 1 said or admitted to, the arrest report further indicated that Subject 1 freely admitted to participating in the "said incident." Additionally, Officers D and C initially responded to the convenience store and spoke to the complainant, Civilian 1, but neither officer could recall what Civilian 1 told them about Subject 1's involvement regarding the criminal damage to property complaint. All four involved officers were interviewed and asked as to what the basis was for the arrest of Subject 1. While the officers generally explained that Civilian 2 implicated Subject 1, or that Subject 1 himself admitted to his involvement, none of the interviewed officers could recall what Subject 1 or Civilian 2 said regarding Subject 1's possible involvement. Finally, both Civilian 2 and Civilian 1 have been unresponsive to our attempts to interview them; therefore, we have been unable to inquire as to what the complaining witness himself and/or Civilian 2 told the responding officers. Finally, during his interview with IPRA investigators, Subject 1 did not freely admit to any involvement to criminal damage to property at the convenient store.

In sum, in making their decision to arrest Subject 1 the officers relied heavily upon information they received from Civilian 2, Civilian 1, and/or Subject 1. Without knowing what this information was, COPA is left with insufficient evidence to determine by the preponderance of the evidence whether the arrest of Subject 1 was made with probable cause. Accordingly, we recommend a finding of not sustained for all allegations concerning the arrest of Subject 1.

Subject 1 Push Against the Wall

²¹ Attachments 18, 19, 20 and 21.

²² 720 ILCS 5.0/21-1-A-1

COPA recommends that the allegation that Officer B grabbed Subject 1 and pushed him against a wall be not sustained. While Subject 1 identified Officer B as the officer who pushed him against a wall, Officer B denied that he ever pushed Subject 1. With the word of Subject 1 against Officer B's word, we find a need for additional evidence to either prove or disprove the allegation by a preponderance. However, when considering no interview from Civilian 2, the fact that none of the interviewed officers could recall with any specificity anyone pushing Subject 1, the fact the Subject 2 could not recall specifically which officer may have pushed Subject 1, we recommend a finding of not sustained.

Remaining Allegations

After reviewing applicable CPD reports, officer interviews, witness interviews and complainant interviews we find there was inadequate evidence to identify by a preponderance which specific officers committed the remaining allegations alleged by Subject 1. Accordingly, we recommend a finding of not sustained for all remaining allegations.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A	It is alleged that on August 6, 2015, at approximately 9:00 pm, at XXXX W. Cortland, inside, the accused, Officer A, #XXXX, Unit XXX, arrested Subject 1 without justification.	Not Sustained
Officer B	It is alleged that on August 6, 2015, at approximately 9:00 pm, at XXXX W. Cortland, inside, the accused, Officer B, #XXXX, Unit XXX, grabbed Subject 1 and pushed him against a wall.	Not Sustained
	It is alleged that on August 6, 2015, at approximately 9:00 pm, at XXXX W. Cortland,	Not Sustained

	inside, the accused, Officer B, #XXXX, Unit XXX, arrested Subject 1 without justification	
Officer C	It is alleged that on August 6, 2015, at approximately 9:00 pm, at XXXX W. Cortland, inside, the accused, Officer C, #XXXX, Unit XXX, arrested Subject 1 without justification.	Not Sustained
Officer D	It is alleged that on August 6, 2015, at approximately 9:00 pm, at XXXX W. Cortland, inside, the accused, Officer D, #XXXX, Unit XXX/Detailed to Unit XXX, arrested Subject 1 without justification.	Not Sustained
Unidentified Officer	<p>1. It is alleged that on August 6, 2015, at approximately 9:00 pm, at XXXX W. Cortland that an unidentified officer damaged Subject 1's cell phone by slamming it against the kitchen counter.</p> <p>2. It is alleged that on August 6, 2015, at approximately 9:00 pm, at District XXX that an unidentified officer Called Subject 1 a "faggot."</p> <p>3. It is alleged that on August 6, 2015, at approximately 9:00 pm, at District XXX that an unidentified officer repeatedly turned the lights of a processing room occupied by Subject 1, off and on.</p>	Not Sustained Not Sustained Not Sustained

Approved:

*COPA Chief Investigator
Deputy Chief Administrator*

Date

Appendix A

Assigned Investigative Staff

Squad#:	XX
Investigator:	COPA Investigator
Supervising Investigator:	COPA Supervising Investigator
Deputy Chief Administrator:	COPA Chief Investigator